IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.913 OF 2004
IN
SUIT NO.3505 OF 1991

FGP Ltd. ..Plaintiffs

Vs.

Saleh Hooseini Doctor ..Defendant

Mr.Kerkar with Mr.D'Lima for the plaintiffs

Mr.R.A.Kapadia Sr.Counsel with Mr.D.J.Khambata i/b Malvi Ranchoddas & Co. for the defendant

CORAM : S.U.KAMDAR, J

DATED : 20TH APRIL 2005

P.C.:

1. By the present Chamber Summons plaintiffs are seeking amendment to the suit. The suit originally filed is for specific performance of an agreement of sale supposed to have been executed some time in or about July 1981 and the said agreement of sale is annexed at Exhibit (A) to the plaint. Now by the present Chamber Summons plaintiffs are seeking to introduce another agreement of 14.7.81 which is totally in variance with the terms and conditions of the agreement which is annexed at Exhibit (A) to the plaint.

2. Plaintiff contends that the agreement at Exhibit (A) to the plaint is an agreement of which specific performance should be granted and in support of which he is now seeking to add another agreement dt.14.7.81 as set out in the amendment. In my opinion such an amendment cannot be granted. He cannot add the second agreement for the purpose of claim of specific performance in respect of the agreement which is already a part of the suit. However, in the present case plaintiff is not only adding the 2nd agreement but also he is not deleting the 1st agreement. Terms and conditions of both the agreements are at total variance. Such a plea which is totally inconsistent to the existing pleading cannot be granted by an amendment to the suit. In view thereof, Chamber Summons dismissed. No order as to costs.